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**OFFICE OF PETITIONS**

In re Application of  
FUJITA et al.  
Application No. 10/541,841  
Filed: 04/28/2006  
Attorney Docket No. 124689

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 15, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to file a timely and proper response to the final Office action of May 23, 2007, which set a three-month shortened statutory period for reply. In the apparent absence of a timely and proper reply, the Office mailed a Notice of Abandonment on January 2, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt of "Petition for Extension of Time w/check #197050 \$120 and Request for Continued Examination (RCE) w/check #197051 \$790" by the U.S. Patent and Trademark Office (USPTO) on September 19, 2007. A copy of the previously submitted reply accompanies the petition.

The RCE and the request for an extension of time within the first month acknowledged as having been received in the USPTO on September 19, 2007, are not of record in the application file and have not been located to date. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the RCE and the request for an extension of time within the first month were timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on September 19, 2007.

This application is being referred to Technology Center AU 1791 for appropriate action in the normal course of business on the reply received with petition on January 15, 2008.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

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